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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,427	04/12/2004	Liam Casey	120-343	2564
76661 7590 06/30/2010 DAVID A. DAGG, ESQ. 44 CHAPIN ROAD NEWTON, MA 02459				
EXAMINER GAY, SONIA L				
ART UNIT 2614		PAPER NUMBER		
NOTIFICATION DATE 06/30/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DAVE@DAVEDAGG.COM

Office Action Summary

Application No.

10/822,427

Applicant(s)

CASEY ET AL.

Examiner

SONIA GAY

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7 - 12, 14 - 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-12, 14 - 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI.08)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in responses to Amendment filed on 04/30/2010. The text of those sections of title 35, U.S. Code not included in this action can be found in a prior Office action.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 30, 2010 has been entered.

Response to Amendment

2. The amendment filed on April 30, 2010 has been entered. Claims 1, 8, and 15 - 17 have been amended. No claims have been canceled. Claims 19 and 20 have been added. Claims 1-5, 7-12 and 14 - 20 are still pending in the application, with claims 1 and 8 being independent.

Claim Rejections - 35 USC § 103

3. Claims 1, 5, 8, 12 and 15 - 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baeder (US 2004/0156356) in view of Turner et al. (US 7,218,722).

For claims 1 and 8, Baeder et al. discloses a method and system including at least one processor and a computer readable memory (Abstract; [0044]) for providing voice

communications over a packet-based data communication network, comprising: request processing logic for receiving a call request ([0020]); gateway determining logic for determining whether the requested call would remain local ([0009] [0016 - 0022]); packet size increasing logic for responsive to determination that the call would remain local, increasing the size of the packets used in the call (*if the caller and the called party have the same prefix, the call is a local call*, [0009] [0022]). Yet, Baeder et al. fails to explicitly teach wherein remaining local is determined by whether a call would span a virtual private network gateway at least in part by comparing a current phone address of at least one phone to be used in the requested call with a local address associated with the phone to detect a mismatch between the current address of the phone and the local address of the phone, wherein the virtual private network gateway connects a local network to an external network.

However, Turner et al. discloses a system and method for the purpose of providing call management services in a virtual private network wherein determining whether a requested call would span a virtual private network gateway comprises, at least in part, comparing a current address of at least one phone to be used in the requested call with a local address associated with the phone and detecting a mismatch between the current address of the phone and the local address of the phone to determine that a requested call would span the virtual private network gateway into an external network (*In step 183, the number provided by the Matching Decision Tree, if altered from that provided by the Directory Server, is examined to ensure the destination is still internal*, wherein the local address is provided by the Directory Server and the current address is provided via the Matching Decision Tree...*At step 184, call agent notes that the NA received from the Matching Decision Tree is different from the Directory Server*, Abstract;

column 4 lines 20 – 30; column 6 lines 16 – 31; column 9 lines 13 – column 10 line 22; column 16 lines 42 – 67; column 20 lines 61 – column 21 line 57; column 24 lines 49 – column 25 line 30).

Thus, Baeder contains a "base" process of "determining whether a requested call would span a gateway and in response to a the determination that the requested call would not span the gateway, increasing the packet size of the call which the claimed invention can be seen as an "improvement" in that the current and local addresses of a phone are compared to determine whether the requested call would span a gateway. Turner et al. contains the known technique of comparing a current and local address of a phone to determine whether a requested call would span a gateway, i.e. a VPN gateway, that is applicable to the "base" process. Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to apply Turner's known technique to the "base" process of Baeder and the results would have been predictable and resulted in adjusting the size of speech packets to provide quality of service for calls in VoIP network wherein local calls inside of a VPN network gateway which have the same prefix (Turner et al., column 4 lines 51 – 60; column 9 lines 13 – 35) would have larger packets sizes compared to calls which would span a VPN network gateway into the PSTN or other external, VPN networks.

For claims 5 and 12, Baeder further discloses wherein said increasing said packets used in said call comprises increasing said size of packets used in said call to a packet size above a default packet size (Baeder, [0048]).

For claims 15 - 18, Baeder and Turner et al. further disclose wherein the local network is a wireless network (Baeder, [0003] [0012] [0013]); wherein the external network is the Internet (Baeder, [0013]); wherein a calling party or called party phone terminated the requested call is located on the local wireless network (Baeder, [0003] [0012] [0021]) and, determining whether the requested call would span a gateway connecting a local network to an external network further comprises determining whether a called party or calling party is being used remotely on the external network through the gateway (Baeder, [0017-0022]) (Turner et al., column 24 lines 49 – column 25 line 30).

For claims 19 and 20, Turner et al. further discloses wherein the at least one phone to be used in the requested call comprises a VoIP phone and wherein the current address of the phone and the local address associated with the phone comprises IP addresses (Turner et al., column 4 lines 33 – column 5 line 5; column 9 lines 13 – 56; column 24 lines 49 – column 25 line 30)

4. Claims 2, 3, 7, 9, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baeder (US 2004/0156356) in view of Turner et al. (US 7,218,722), and further in view of Michelson et al. (US 7,283,541).

For claims 2, 3, 9, and 10, Baeder discloses a delay determining logic for determining whether a total delay for the requested call would exceed a predetermined maximum delay if the length of the packet is increased for the requested call responsive to stored information in a call server system indicating whether a called party phone is local to a calling party phone; or a directory number of a calling party phone and a directory number of called party phone and wherein the packet size increasing logic increases the size of the packets used in the requested

call only in the event that the delay for the call can be increased without exceeding the predetermined maximum delay ([0021- 0033] [0044] [0036 - 0040] [0046 - 0048]). Yet, Baeder fails to teach increasing the packetization delay component to increase the packet length.

However, Michelson et al. discloses determining whether a total delay for the requested call would exceed a predetermined maximum delay if a packetization delay component is increased, thereby increasing the packet length, for the requested call (Abstract; column 2 lines 29 – 32; column 4 lines 62 – column 5 line 54; column 6 lines 40 – 53; column 7 lines 56 - 65) for the purpose of adjusting packet sizes in a local voice over Internet Protocol call (Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Baeder with the teachings of Michelson et al. to determine whether a total delay for the requested call would exceed a predetermined maximum delay if a packetization delay component is increased to increase the length of the packet for the purpose of adjusting packet sizes in local VoIP call as disclosed above in Baeder.

For claims 7 and 14, the teachings of Baeder and Michelson et al. further disclose wherein said maximum delay is a value that cannot be exceeded without adversely impacting the voice quality of the call (Baeder, [0040]) (Michelson et al., column 1 lines 64 – column 2 line

5. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baeder (US 2004/0156356) in view of Turner et al. (US 7,218,722), and further in view of Kotabe et al. (US 2003/021904).

For claims 4 and 11, Baeder fails to teach determining whether a calling party phone and a called party phone can process an increased packet size, and only increasing said size of packets used in the call in the event that both said calling party phone and said called party phone can process said increased packet size.

However, Kotabe et al. discloses a method and system of a calling party using a query packet to notify a called party of a maximum delay quantity of a packet transfer ([0024] [0025] [0061] [0062]) for the purpose of the enabling the called party to adaptively determine and optimize its own received packet buffering quantity for voice call quality in the system ([0037]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Baeder with the teachings of Kotabe et al. to enhance the functionality of the determining logic disclosed above in Baeder by sending a query packet to notify the called party of the total delay associated with an increased packet size for the purpose of enabling the called party to determine and optimize the received packet buffer to handle these packets.

Response to Arguments

6. Applicant's arguments with respect to claims 1 and 8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SONIA GAY whose telephone number is (571)270-1951. The examiner can normally be reached on Monday to Thursday from 7:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sonia Gay/
Examiner, Art Unit 2614
June 25, 2010

/Rasha S AL-Aubaidi/
Primary Examiner, Art Unit 2614